THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12257 of 2005

ORAL ORDER:

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In this writ petition, common award passed in I.D.Nos.10/97 to 14/97, 16/97 to 22/97, 24/97 to 31/97 and 33/97 dated 24.1.2004 and notified under G.O.Ms.No.476 dated 19.3.2004 are under challenge.

The Anantapur Municipal Corporation filed this writ petition questioning the common award passed in the above IDs. It appears, some procedural irregularities in filing the present writ petition, but ignoring the same, this writ petition is being disposed of. However, Petitioner is directed to pay individual court fee against each I.D. before the order is dispatched.

It appears, petitioners in the above I.Ds. are workmen and they raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 challenging their termination in the year 1986 stating that their termination from service was arbitrary, illegal and contrary to the provisions of Section 25-F of the I.D. Act. Though the services of the workmen were terminated in the year 1986, they raised the disputes in the year 1997. In support of their case workman himself was examined as W.W.1 and on behalf of management, M.W.1 was examined. No documents were marked on behalf of both the parties. After a detailed consideration of the entire issue and on the basis of evidence placed before it, the Labour Court came to the conclusion that the workmen in all the I.Ds. are N.M.Rs and they worked for more than 240 days and the provisions of Section 25-F of the I.D. Act have been violated, therefore, directed the management to reinstate the workmen as NMR workers with continuity of service, but without any back wages, till the date of filing of claim petition. It was further directed to pay half of the back wages from the date of filing of claim petition till the date of publication of award and full wages from the date of publication of award till the date of reinstatement. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner-management strenuously contended that though the services of the petitioners were terminated in the

year 1986, they kept quite for 11 long years and raised the disputes only in the year 1997. The Labour Court failed to see that the workmen never worked for 240 days continuously preceding the date of their termination to attract the provisions of Section 25-F of the I.D. Act in terminating their services. Further, awarding of continuity of service and 50% back wages from the date of petition till the date of award also does not arise. Therefore, the award passed by the Labour Court is liable to be set aside.

Whereas, the learned counsel for respondents supported the award passed by the Labour Court and stated that Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India. The Labour Court in its wisdom has granted half of the back wages from the date of petition till the date of award and no back wages were awarded for the period from 1986 till 1997. The Labour Court awarded 50% of the back wages from the date of petition till the date of award in view of the fact that there was gross violation of provisions of Section 25F of the I.D. Act.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the common award and other material made available on record.

It is an admitted fact that the services of the workmen were terminated in the year 1986 and they raised disputes in the year 1997. Since there was a finding that the workmen have worked for more than 240 days preceding the date of termination, the findings recorded by the Labour Court that there is a gross violation of provisions of Section 25-F of the I.D. Act cannot be said to be either arbitrary or illegal. However, I am of the opinion that the Labour Court having denied back ages from 1986 to 1997, ought not to have awarded any wages either half or any part thereof, from the date of filing the claim petition till the date of award, since the dispute was raised with abnormal delay of 11 years. Under those circumstances, the award passed by the Labour Court is liable to be modified to the following effect.

The oral termination of the workmen is declared as illegal and the management is directed to reinstate the workmen as N.M.R workers with

continuity of service from the date of petition filed under Section 2-A(2) of the I.D. Act. However, that portion of the award, awarding full back wages from the date of publication of award till the date of reinstatement is not disturbed. However, the services rendered by the petitioners before termination of their services shall be taken into consideration for the purpose of seniority and terminal benefits.

With the above modification, the writ petition is disposed of. No order as to costs.

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C.V.RAMULU, J

Date: 16.4.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12257 of 2005

16.4.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12257 of 2005

Date: 16th April, 2007

Between:

Anantapur Municipal Corporation,
represented by its Commissioner N.Somi Reddy.

.. Petitioner

And

The Chairman-cum-Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Ananthapur & others.

.. Respondents